IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO.5548 of 2007

DATE OF DECISION: 08.05.2007

Ved Parkash ....Petitioner

Versus

United India Insurance Company Limited and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE L.N. MITTAL

PRESENT: Mr. Rahul Chhatwal, Advocate
for the petitioner.

J.S. Khehar, J. (oral)

The petitioner was inducted into the service of the respondents on 1.5.1986. During the course of his employment, the respondents, through a notification dated 1.1.2004, introduced the General Insurance Employees' Special Voluntary Retirement Scheme, 2004 (hereinafter referred to as the 2004 Scheme). Since the petitioner fulfilled the conditions stipulated for voluntary retirement under the 2004 Scheme, he applied for special voluntary retirement on 24.2.2004. The claim of the petitioner was accepted and he was allowed to retire voluntarily under the 2004 Scheme with effect from 31.3.2004.

On account of the fact, that the petitioner was allowed to retire voluntarily under the 2004 Scheme, the petitioner claims pension for having served with the respondents. This claim, according to the petitioner, is permissible under the head “other benefits” referred to in the

2004 Scheme. The aforestated head is being extracted hereunder:-

> "Other benefits:-
>
> (1) An employee opting for the scheme shall also be eligible for the following benefits in addition to the ex-gratia amount mentioned in para 5, namely:-
>
> (a) Provident fund.
>
> (b) Gratuity as per Payment of Gratuity Act, 1972 (39 of 1972) or gratuity payable under the Rationalisation Scheme, as the case may be;
>
> (c) Pension (including commuted value of pension) as per General Insurance (Employees') Pension Scheme 1995, if eligible. However, the additional notional benefit of the five years of added service as stipulated in para 30 of the said Pension Scheme shall not be admissible for the purpose of determining the quantum of pension and commutation of pension.
>
> (d)leave encashment.
>
> (2) An employee who is opting for the scheme shall not be entitled to avail Leave Travel Subsidy and also encashment of leave while in service during the period of sixty days from the date of notification of this scheme."

In fact, pointed attention of this Court has been invited to clause (c), extracted hereinabove, which expressly provides that an employee allowed to retire voluntarily under the 2004 Scheme, would also be entitled to pension.

We have perused clause (c), referred to and relied upon by

the learned counsel for the petitioner. Its perusal reveals, that pension under the 2004 Scheme would be permissible to an employee who satisfies the eligibility conditions prescribed for the release of pension under the General Insurance (Employees) Pension Scheme, 1995 (hereinafter referred to as the Pension Scheme). The petitioner has appended with the instant writ petition a communication dated 29.6.2004 (Annexure P8). A perusal of the aforesaid communication reveals, that the petitioner does not satisfy the eligibility conditions stipulated in the Pension Scheme on account of the fact, that he did not have 20 years of qualifying service to his credit, at the time of his voluntary retirement with effect from 31.3.2004. The petitioner has neither impugned the order dated 29.6.2004, nor controverted the factual position depicted therein, namely, that the petitioner did not have 20 years of qualifying service to his credit at the time of his voluntary retirement with effect from 31.3.2004.

In view of the above, it is imperative for us to accept, that the petitioner did not satisfy the conditions stipulated for eligibility under the Pension Scheme for grant of pension. Thus viewed, it is natural to further conclude, that the claim of the petitioner for pension under the 2004 Scheme, under clause (c) of the "other benefits", extracted hereinabove, is clearly misconceived.

Despite our aforesaid conclusion , learned counsel for the petitioner has invited our attention to the decision rendered by a learned Single Judge of this Court in Manorma Rani V. The Secretary to Government Punjab, Education Department and others, 2000(3) Services Cases Today 100, as well as, the decision rendered by this Court in Jasbir

Singh V. State of of Punjab and others, 1996(8) Services Law Reporter 807. We have perused the aforesaid judgments. The same have no nexus to the controversy raised in the instant writ petition.

In view of the above, we find no merit in this petition and the same is, accordingly, dismissed.

(J.S. Khehar)
Judge

(L.N. Mittal)
Judge

May 08, 2007.
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